

§ 266.230

and managed by you under a single NRC or NRC Agreement State license. (Mixed waste generated at a facility with a different license number and shipped to your facility for storage or treatment requires a permit and is ineligible for this exemption. In addition, NARM waste is ineligible this exemption.)

§ 266.230 What conditions must you meet for your LLMW to qualify for and maintain a storage and treatment exemption?

(a) For your LLMW to qualify for the exemption you must notify us in writing by certified delivery that you are claiming a conditional exemption for the LLMW stored on your facility. The dated notification must include your name, address, RCRA identification number, NRC or NRC Agreement State license number, the waste code(s) and storage unit(s) for which you are seeking an exemption, and a statement that you meet the conditions of this subpart. Your notification must be signed by your authorized representative who certifies that the information in the notification is true, accurate, and complete. You must notify us of your claim either within 90 days of the effective date of this rule in your State, or within 90 days of when a storage unit is first used to store conditionally exempt LLMW.

(b) To qualify for and maintain an exemption for your LLMW you must:

(1) Store your LLMW waste in tanks or containers in compliance with the requirements of your license that apply to the proper storage of low-level radioactive waste (not including those license requirements that relate solely to recordkeeping);

(2) Store your LLMW in tanks or containers in compliance with chemical compatibility requirements of a tank or container in 40 CFR 264.177, or 264.199 or 40 CFR 265.177, or 265.199;

(3) Certify that facility personnel who manage stored conditionally exempt LLMW are trained in a manner that ensures that the conditionally exempt waste is safely managed and includes training in chemical waste management and hazardous materials incidents response that meets the per-

40 CFR Ch. I (7-1-03 Edition)

sonnel training standards found in 40 CFR 265.16(a)(3);

(4) Conduct an inventory of your stored conditionally exempt LLMW at least annually and inspect it at least quarterly for compliance with subpart N of this part; and

(5) Maintain an accurate emergency plan and provide it to all local authorities who may have to respond to a fire, explosion, or release of hazardous waste or hazardous constituents. Your plan must describe emergency response arrangements with local authorities; describe evacuation plans; list the names, addresses, and telephone numbers of all facility personnel qualified to work with local authorities as emergency coordinators; and list emergency equipment.

TREATMENT

§ 266.235 What waste treatment does the storage and treatment conditional exemption allow?

You may treat your low-level mixed waste at your facility within a tank or container in accordance with the terms of your NRC or NRC Agreement State license. Treatment that cannot be done in a tank or container without a RCRA permit (such as incineration) is not allowed under this exemption.

LOSS OF CONDITIONAL EXEMPTION

§ 266.240 How could you lose the conditional exemption for your LLMW and what action must you take?

(a) Your LLMW will automatically lose the storage and treatment conditional exemption if you fail to meet any of the conditions specified in § 266.230. When your LLMW loses the exemption, you must immediately manage that waste which failed the condition as RCRA hazardous waste, and the storage unit storing the LLMW immediately becomes subject to RCRA hazardous waste container and/or tank storage requirements.

(1) If you fail to meet any of the conditions specified in § 266.230 you must report to us and the NRC, or the oversight agency in the NRC Agreement State, in writing by certified delivery within 30 days of learning of the failure. Your report must be signed by

Environmental Protection Agency

§ 266.250

your authorized representative certifying that the information provided is true, accurate, and complete. This report must include:

- (i) The specific condition(s) you failed to meet;
- (ii) A description of the LLMW (including the waste name, hazardous waste codes and quantity) and storage location at the facility; and
- (iii) The date(s) on which you failed to meet the condition(s).

(2) If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify us orally within 24 hours and follow up with a written notification within five days. Failures that may endanger human health or the environment include, but are not limited to, discharge of a CERCLA reportable quantity or other leaking or exploding tanks or containers, or detection of radionuclides above background or hazardous constituents in the leachate collection system of a storage area. If the failure may endanger human health or the environment, you must follow the provisions of your emergency plan.

(b) We may terminate your conditional exemption for your LLMW, or require you to meet additional conditions to claim a conditional exemption, for serious or repeated noncompliance with any requirement(s) of subpart N of this part.

§ 266.245 If you lose the storage and treatment conditional exemption for your LLMW, can the exemption be reclaimed?

(a) You may reclaim the storage and treatment exemption for your LLMW if:

- (1) You again meet the conditions specified in § 266.230; and
- (2) You send us a notice by certified delivery that you are reclaiming the exemption for your LLMW. Your notice must be signed by your authorized representative certifying that the information contained in your notice is true, complete, and accurate. In your notice you must do the following:
 - (i) Explain the circumstances of each failure.
 - (ii) Certify that you have corrected each failure that caused you to lose the

exemption for your LLMW and that you again meet all the conditions as of the date you specify.

(iii) Describe plans that you have implemented, listing specific steps you have taken, to ensure the conditions will be met in the future.

(iv) Include any other information you want us to consider when we review your notice reclaiming the exemption.

(b) We may terminate a reclaimed conditional exemption if we find that your claim is inappropriate based on factors including, but not limited to, the following: you have failed to correct the problem; you explained the circumstances of the failure unsatisfactorily; or you failed to implement a plan with steps to prevent another failure to meet the conditions of § 266.230. In reviewing a reclaimed conditional exemption under this section, we may add conditions to the exemption to ensure that waste management during storage and treatment of the LLMW will protect human health and the environment.

RECORDKEEPING

§ 266.250 What records must you keep at your facility and for how long?

(a) In addition to those records required by your NRC or NRC Agreement State license, you must keep records as follows:

- (1) Your initial notification records, return receipts, reports to us of failure(s) to meet the exemption conditions, and all records supporting any reclaim of an exemption;
- (2) Records of your LLMW annual inventories, and quarterly inspections;
- (3) Your certification that facility personnel who manage stored mixed waste are trained in safe management of LLMW including training in chemical waste management and hazardous materials incidents response; and
- (4) Your emergency plan as specified in § 266.230(b).

(b) You must maintain records concerning notification, personnel trained, and your emergency plan for as long as you claim this exemption and for three years thereafter, or in accordance with NRC regulations under 10 CFR part 20 (or equivalent NRC Agreement State